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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 28th October 2014

No. 8553—li-1(B)-50/2006-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 2nd September 2014 in I. D. Case No. 54 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Badamulabasanta Service Co-operative Society Ltd., Badamulabasanta, Dist. Kendrapara and its Workman Shri Ajay Kumar Pradhan, ex-Asst. Secretary was referred to for adjudication is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 54 OF 2006

Dated the 2nd September 2014

Present :

Shri S. K. Sahoo, O.S.J.S. (Jr. Branch),
Presiding Officer, Labour Court,
Bhubaneswar.

Between :

The management of
Badamulabasanta Service Co-operative
Society Ltd., Badamulabasanta,
Dist. Kendrapara.

.. First Party—Management

And

Its workman,
Shri Ajay Kumar Pradhan,
ex Asst. Secretary,
M/s Badamulabasanta Service Co-op. Society,
S/o Shri Khetrabasi Pradhan,
At Panduhata, P.O. Badamulabasanta,
P.S. Pattamundai, Dist. Kendrapara.

.. Second Party—Workman

Appearances :

None	.. For the First Party—Management
Shri A. K. Pradhan	.. For the Second Party—Workman himself

AWARD

The Government of Odisha, in the Labour & Employment Department, in exercise of powers conferred upon it by sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short, the Act), have referred the following dispute for adjudication by this Court vide their Letter No. 4816—li-1 (B)-50/2006-LE., dated the 17th June 2006 :—

“Whether the dismissal of service of Shri Ajay Kumar Pradhan, Assistant Secretary of M/s Badamulabasanta Service Co-operative Society Ltd., Badamulabasanta, Dist. Kendrapara with effect from the 19th February 2000 vide Order No. 93, dated the 14th December 2004 of the Secretary of this Society is legal and/or justified ? If not, what relief he is entitled to” ?

2. The case of the workman in brief as per his claim statement is that initially he joined as Asst. Secretary under the first party management on 14-5-1991 on a monthly salary of Rs. 350. On 28-2-2000 he was placed under suspension and charges were framed against him on 9-3-2000. The second party has submitted his explanation to the charges on 22-3-2000. Again the first party management had framed additional charges vide Letter No. 31, dated the 6th January 2001 to which the second party submitted him explanation. The second party denied all the charges. Subsequently, a Surcharge case bearing No. 25 of 2001 was instituted before the Asst. Auditor General Co-operative Societies, Cuttack, Circle-2. The second party was exonerated from the charges in the aforesaid proceeding and a direction was issued to disburse the arrear salary immediately. In spite of such direction the first party did not pay all the arrear salary of the second party. Finding no other way the second party had raised an Industrial dispute before the Labour Machinery and when the conciliation proceeding was going on, the second party was served with a dismissal order on 14-12-2004. The second party received the said order of dismissal on 22-12-2004. No enquiry was conducted by the first party prior to such dismissal. Hence the second party has prayed for his reinstatement in service along with full back wages.

3. In spite of notice issued to the first party management it did not turn up to participate in the hearing for which it has been set *ex parte*.

4. The second party workman is examined as W.W. 1 and Exts. 1 to 13 are marked on his behalf. Ext. 1 is the photo copy of Letter No. 1, dated the 10th May 1991 issued to the second party by the first party management, Ext. 2 is the suspension Order No. 9, dated the 28th February 2000, Ext. 3 is the photo copy of the charges communicated to the second party vide Letter No. 14, dated the 9th March 2000, Ext. 4 is the photo copy of the additional charges communicated to the second party vide Letter No. 31, dated the 6th January 2001, Exts 6 is the photo copy the explanation submitted by the second party, Ext. 7 is the photo copy of the representation submitted by the second party to the Asst. Registrar, Co-operative Societies, Kendrapara Circle, dated the 15th December 2003, Ext. 8 is the photo copy of the Memo. No. 1337, dated the 6th April 2004 received

from the President of the first party management by the second party, Ext. 9 is the photo copy of the order passed by the learned Asst. Auditor General of Co-operative Societies, Cuttack Circle, Cuttack in review case No. 4 of 2003 communicated to the second party vide Memo. No. 1896, dated the 21st June 2004, Ext. 10 is the dismissal order, dated 14th December 2004 (photo copy), Ext. 11 is the photo copy of the representation against the dismissal order of the second party, dated the 28th December 2004, Ext. 12 is the photo copy of Letter No. 98, dated the 28th December 2004 issued by the Secretary, Badamulabasanta S.C.S to D.L.O., Kendrapara and Ext. 13 is the photo copy of Memo. No. 149, dated the 13th January 2005 issued to Asst. Registrar, Co-operative Societies, Kendrapara Circle by the D.R.C.S. Cuttack Division, Cuttack.

5. The workman who is examined as W.W. 1 in his affidavit evidence deposed that he had joined as Asst. Secretary under the first party management on 14-5-1991 and performing his duty to the best satisfaction of his authorities. He further deposed that his monthly salary was fixed at Rs. 350 per month. At Paragraph. 3 of his affidavit evidence he further deposed that on 28-2-2000 he was put under suspension and charges was framed against him on 9-3-2000. It is also clear from his evidence that one additional charge was framed against him on 6-1-2001 and he had submitted his explanation to those charges. At Paragraph 6 of his evidence he deposed that one Surcharge Case bearing No. 25 of 2001 was initiated against him by the Asst. Auditor General Co-operative Societies, Circle-II, Cuttack and review case No. 4 of 2003 was also initiated against the order passed in Surcharge Case No. 25 of 2001. It transpires from the evidence of W.W. 1 that he was exonerated by the authority in review Case No. 4 of 2003 and necessary direction was issued for payment of his unpaid salary. Ext. 1 is the photo copy of the appointment letter whereas Ext. 2 is the photo copy of the suspension order, dated the 28th February 2000 passed against the second party by the first party management. Exts. 3,4,5 and 6 are the photo copies of charge, additional charge and the explanations submitted by the second party workman. Ext. 8 is the photo copy of the letter submitted by the Deputy Registrar of Co-operative Societies addressed to the President of the first party Society, dated the 6th April 2004. In the said letter the Deputy Registrar has requested the President of the first party to allow the second party to work as Asst. Secretary pending finalisation of proceeding against him. Ext. 10 is the dismissal order passed by the first party management against the second party. On perusal of Ext. 10 it appears that due to unanimous decision taken in the A.G.B. 25-2-2003 (Proposal No. 5) and dated the 25th March 2004 (Proposal No. 6). The second party workman was dismissed from his service with effect from the 19th February 2000. On perusal of the said documents it is not clear as to the reason for which the dismissal of the second party was effected. In spite of notice issued to first party management it did not turn up to contest the case. The second party specifically deposed that he has been terminated from his service by the first party management illegally. The first party management did not choose to examine any witness to prove that the termination of the second party was legal and justified. Absolutely there is no evidence on record as to why the second party was terminated from his service although there are materials on record to show that some charges were framed against him. The dismissal order Ext. 10 is not clear as to why the second party has been terminated from his service. After analysing the evidence on record it is clear that the termination of the second party workman by the first party management with effect from the 19th February 2000 vide Order No. 93, dated the 14th December 2004 is neither legal nor justified.

6. In view of the finding that the termination of the second party workman by the first party management is illegal and unjustified, he is entitled for reinstatement in service along with full back wages. Admittedly, since his termination from the year 2004 the second party is not serving under the first party. The first party management is a Co-operative Society. The monthly salary of the second party workman was fixed at Rs. 350. Taking into consideration the above factual aspect the first party management is directed to reinstate the second party workman in service forthwith and to pay him 25% back wages within a period of one month of the date of publication of the Award in the Official Gazette.

The reference is disposed answered accordingly.

Dictated and corrected by me.

S. K. SAHOO
2-9-2014
Presiding Officer
Labour Court
Bhubaneswar

S. K. SAHOO
2-9-2014
Presiding Officer
Labour Court
Bhubaneswar

By order of the Governor
M. NAYAK
Under-Secretary to Government
